

CHAPTER NO. 800

HOUSE BILL NO. 2655

By Representatives McMillan, Jackson

Substituted for: Senate Bill No. 2363

By Senators Kyle, Graves, Burks

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 35, Part 2, relative to uniform judgment documents and to enact the "Criminal Sentence Explanation Act of 2000".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Section 2 of this act shall be known and may be cited as the "Criminal Sentence Explanation Act of 2000".

SECTION 2. Tennessee Code Annotated, Section 40-35-210, is amended by adding the following new subsection (h):

(h)(1) Upon sentencing a defendant to the Department of Correction or to a local jail or workhouse for a period of more than two (2) years, the judge shall announce in open court that information explaining the sentence just imposed is available to anyone upon request. The information explaining the sentence shall consist of a copy of the completed uniform judgment document required by Rule 17 of the Rules of the Supreme Court and Tennessee Code Annotated, 40-35-209(e), and an accompanying document that shall contain the following information:

(A) A statement explaining that an estimate of the number of years of a felony sentence that a defendant is required to serve before being first eligible for release on parole can be calculated by determining the defendant's range and release eligibility percentage and then applying that percentage to the defendant's sentence. An example is a defendant sentenced to 10 years in the Department of Correction as a Persistent Range III offender with a release eligibility percentage of 45%. That means the defendant must serve 45% of 10 years or 4.5 years before being first eligible for release on parole. This 4.5 year minimum length of sentence service does not include a defendant's sentence reduction credits or the possible effect of prison overcrowding which are discussed in subparts (C) and (E) below, respectively;

(B) A statement that whether a defendant is actually released from incarceration on the date when such defendant is first eligible for release is a discretionary decision made by the Board of Probation and Parole based upon many factors and that such board has the authority to require the defendant to serve the entire sentence imposed by the court;

(C) A statement that pursuant to Tennessee Code Annotated, Section 41-21-236, a defendant, after incarceration, may earn sentence reduction credits of up to eight (8) days per month for good institutional behavior and up to eight (8) days per month for satisfactory program performance for a maximum total of sixteen (16) days per month;

(D) A statement that the actual number of such reduction credits for good behavior and program performance that a defendant earns depends upon the defendant's conduct while incarcerated and that the Department of Correction may remove sentence credits previously awarded for certain disciplinary infractions; and

(E) A statement that during certain specified times of prison overcrowding the Governor may, pursuant to Tennessee Code Annotated, Section 41-1-504, direct the Board of Probation and Parole to grant early parole to a sufficient number of certain types of inmates to reduce the overcrowding.

(2) The failure of a judge to provide the sentence explanation information upon request as required by this subsection or the fact that the sentence explanation information provided may be inaccurate, incomplete or erroneous shall not be used by a defendant in a criminal case as a ground for appeal, new trial, post-conviction relief or habeas corpus nor shall it be construed to set aside, reverse, vacate, or void a finding of guilt, an acceptance of a plea of guilty or the sentence imposed in any criminal case.

SECTION 3. Tennessee Code Annotated, Section 40-35-209, is amended by adding the following sentence to the end of subsection (e):

Regardless of whether the sentencing of a defendant falls within the provisions of Tennessee Code Annotated, Section 40-35-210(h), after the defendant is sentenced the uniform judgment document completed by the District Attorney General is a public record and is available to anyone upon request.

SECTION 4. Tennessee Code Annotated, Section 40-35-209(e), is further amended by adding the following subpart to be designated as (7) and by renumbering existing subparts accordingly:

(7) Whether the defendant was sentenced as a 100% offender pursuant to Tennessee Code Annotated, Section 40-35-501(i).


SECTION 5. This act shall take effect on July 1, 2000, the public welfare requiring it and shall apply to all applicable sentences imposed on or after such date.

PASSED: May 15, 2000


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 23rd day of May 2000


DON CONQUIST, GOVERNOR